



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Southwest Resource Development

**File:** B-244147

**Date:** September 26, 1991

Joyce M. Hipp for the protester.  
Pat McNall, Esq., Department of Transportation, Federal Aviation Administration, for the agency.  
Roger H. Ayer, Esq., and James A. Spangenberg, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Agency reasonably eliminated as technically unacceptable a proposal from the competitive range where the record shows that the proposal was so deficient technically that substantial revisions would be necessary in order for it to become acceptable.

### DECISION

Southwest Resource Development protests the exclusion of its offer from the competitive range under request for proposals (RFP) No. DTFA-02-90-R-00907, issued by the Department of Transportation, Federal Aviation Administration (FAA) for facility maintenance and building operations at the Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma.<sup>1/</sup> The successful contractor will provide an organization (labor, transportation, and tools) to maintain, repair, operate and modify the Center's more than 50 structures, including 17 major buildings and their respective systems and utilities.<sup>2/</sup>

<sup>1/</sup> The purpose of the 430-acre Center is to train FAA employees, maintain FAA fleet aircraft, provide all FAA installations with depot-level support, preserve agency records, and conduct medical research.

<sup>2/</sup> The systems and utilities include an assortment of mechanical and electrical equipment systems, such as heating, ventilating and air conditioning (HVAC), gas, warehouse automation, elevators, plumbing, water treatment, sewage, security, fire suppression, telecommunications, exterior lighting, pest control, and computer systems.

We deny the protest.

This procurement was competitively conducted under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1988 and Supp. I 1989), and will result in a contract award to the Small Business Administration (SBA), which will in turn subcontract the work to the offeror selected by FAA. The RFP envisions the award of a cost-plus-award-fee contract for a base year and 4 option years.

Award is to be made to the offer evaluated as providing the overall greatest value to the government. The RFP further provided that "the successful offer may not necessarily be the lowest priced offer. Technical competence is somewhat more important than cost." The technical evaluation criteria were: (1) management, (2) staffing, (3) key project personnel, (4) experience and past performance, and (5) contract start-up. Cost was to be evaluated, but not numerically scored, in the areas of completeness, reasonableness and realism.

The FAA received four offers, including offers from Southwest and FKW Inc., the incumbent contractor for the past 5 years. FKW was rated 2.47 on a 4-point scale with a proposed cost of approximately \$17.8 million. Southwest's proposal received a rating of .93 points with a proposed cost of approximately \$14.5 million. Southwest was rated as 1.0 in one category (management), 1.5 in two categories (staffing and key personnel), and below 0.5 in two categories (experience and past performance, and contract start-up). One of the other two offers was considered completely unacceptable and eliminated from the competition, while the second offer, like Southwest's, was excluded from the competitive range after the initial evaluation.

Southwest was considered deficient in all technical areas. Specifically, Southwest lost points under the management category because Southwest had proposed a larger workforce (70 instead of 67 persons) with new positions and a different organizational structure from that called for in the RFP, without providing a sufficient rationale for the changes.<sup>3/</sup> FAA also found that Southwest did not provide sufficient technical details on such matters as task/work orders, quality control, and computer systems as required by the RFP.

Under the staffing category, FAA's main concern was Southwest's overstaffing. FAA also stated that it was

---

<sup>3/</sup> Southwest disregarded the agency's preproposal conference advice not to alter the staffing level but to base proposals on the statement of work.

troubled that Southwest's proposal only evidenced experienced management at the "corporate" level and with two individuals of the proposed on-site team,<sup>4/</sup> and that similar experience was not presented for the balance of the on-site team. Southwest's lack of plans for retention of personnel and recruitment also caused concern.

With regard to the key personnel category, the agency found Southwest's proposal vague and deficient in its explanation of how Southwest would recruit additional qualified key personnel, e.g., qualification standards when recruiting key personnel from sources other than the incumbent's workforce. FAA also found Southwest's proposed order of authority confusing.

Similarly, in the category of experience and past performance, the evaluators downgraded Southwest for lack of detail and comparable experience. FAA could not ascertain how Southwest's claimed experience related to Southwest's corporate experience base or how recent this experience was. FAA was concerned that the technical experience background of Southwest, as an entity, did not include responsibility for a facility of the same magnitude as the Aeronautical Center, even though two key personnel that Southwest identified in its proposal had worked on facilities of similar magnitude. Southwest also did not address sufficiently its technical experience in servicing heavy air conditioning equipment, the central control and monitoring system, the automated warehouse, and the SL100 communications system. Southwest was further found to lack government contract experience in cost-plus-award-fee contracts.

Finally, under the category of contract start-up, FAA downgraded Southwest for submitting schedules/milestones that were inconsistent with its proposed staffing and start-up plan. FAA further downgraded Southwest for not spelling out: (1) the considerations underlying its proposed phase-in schedule; (2) how Southwest would train its key managers and supervisors during contract start-up; (3) how work tasks would be managed during phase-in; and (4) the development, implementation, and nature of Southwest's quality control during the phase-in period.

The Source Evaluation Board (SEB) determined on the basis of its evaluation of initial offers that only FKW should be included in the competitive range. The SEB concluded that "a complete redirection of effort, constituting a total rewrite of the proposal in all evaluation categories, would be

---

<sup>4/</sup> FAA admits that the two on-site managers have more experience than the RFP requires.

required before [Southwest's] offer could begin to be within the competition."5/

After receiving notice of its elimination from the competitive range, and the reasons therefor, Southwest filed an agency-level protest seeking reinstatement in the competition. FAA denied Southwest's protest. Southwest then protested to our Office, contending that it could have simply explained, or corrected during discussions, the "minor weaknesses" found in its technical proposal.

An agency is only obligated to conduct discussions with offerors within the competitive range. Federal Acquisition Regulation (FAR) § 15.610(b).6/ The competitive range must include all proposals that have a reasonable chance of being selected for award and any doubt as to whether a proposal is in the competitive range should be resolved by inclusion. FAR § 15.609(a). Proposals that are technically unacceptable as submitted and would require substantial revisions to become acceptable are properly excluded from the competitive range. S. Adelman & Assocs., B-234678, July 6, 1989, 89-2 CPD ¶ 19. The evaluation of proposals and the resulting determination of whether a proposal is in the competitive range are matters within the exercise of discretion of the procuring agency. Abt Assocs. Inc., B-237060.2, Feb. 26, 1990, 90-1 CPD ¶ 223. In reviewing an agency's evaluation, we will not reevaluate the technical proposals, but instead will examine the agency's evaluation to ensure that it is reasonable and in accordance with stated evaluation criteria. Id.

Here, we find reasonable FAA's elimination of Southwest's proposal since there were major deficiencies in its proposal, many of which were not readily curable, and substantial revisions would need to be made in order for Southwest's proposal to become acceptable.

With regard to the management category, Southwest contends that it asked FAA the size of the incumbent's workforce and was told that it numbered 70 persons. Southwest argues that the RFP did not preclude additional personnel and the need for additional personnel is apparent. However, the agency, at the preproposal conference, which the protester attended, expressly advised offerors not to alter the RFP staffing in

---

5/ The evaluators concluded that Southwest was "grossly deficient, and should have been eliminated at the outset."

6/ FAR applies to competitive section 8(a) procurements. See 13 C.F.R. § 124.311(f) (1991).

their offers.<sup>7/</sup> In any case, Southwest should have initially provided a complete detailed rationale for proposed changes (i.e., the increase and organizational restructuring) in the specified staffing if it wanted to avoid concerns in this area.<sup>8/</sup> The fact that Southwest may now be able to provide a rationale for the proposed workforce does not make FAA's evaluation of this aspect of Southwest's proposal questionable, since Southwest's submitted proposal was reasonably evaluated as not offering the staff and organization called for in the RFP.

With regard to the staffing category, the record confirms that Southwest overstaffed the contract without adequate explanation. Also, while Southwest's project manager and assistant project manager have considerable experience, Southwest did not identify specific qualified and experienced individuals below the management level that it would hire for the workforce; Southwest only indicated that it planned to hire additional similarly experienced managers/supervisors meeting the RFP's qualification requirements.<sup>9/</sup> Given the substantial staffing requirements, Southwest, which merely promised to hire experienced employees, was reasonably found deficient. Since Southwest's proposal identified only two of its employees, this deficiency does not appear readily curable.

Under the key personnel category, FAA's concern about the lack of detail regarding the recruiting of key personnel from sources other than the incumbent's workforce seems legitimate from our review of Southwest's proposal. We also find

---

<sup>7/</sup> If Southwest believed--on the basis of the advice it received in December regarding the size of the incumbent's current workforce--that the RFP workforce numbers were incorrect it should have protested the matter before the January 4, 1991, closing date for receipt of proposals.

<sup>8/</sup> Section L.5 of the RFP advised offerors that "the technical proposal must be specific, detailed and complete to clearly and fully demonstrate that the offeror has a thorough understanding of the requirements for, and technical problems inherent in, providing services of the scope and character outlined in the SOW (statement of work)." At the preproposal conference offerors were told that "generalized statements regarding the offeror's understanding or compliance will be considered insufficient."

<sup>9/</sup> In contrast, the incumbent received much more credit than Southwest because it proposed experienced individuals at all levels of the work force (i.e., the incumbent named the current workforce and provided their license numbers where special licenses were applicable).

reasonable FAA's concern regarding the clarity of Southwest's project manager chain-of-command. This concern resulted from Southwest's failure to clearly present its own plan and from resulting conflicts between Southwest's written proposal and its organization charts,<sup>10/</sup> as well as from its decision to employ three alternate chains of command depending upon the subject matter addressed.<sup>11/</sup>

Under the experience and past performance category, FAA reasonably concluded that at best two members of the proposed workforce had the required comparable experience, and we think it could reasonably decide that 2 identified, experienced persons out of a workforce totaling more than 60 was insufficient to establish an offeror's proven staff experience. FAA also reasonably found the proposing entity lacked sufficient corporate experience; Southwest's president's management experience as a government employee in charge of a large government civilian employee program in Europe and as a cost-reduction consultant to commercial firms--apparently on a cost-reimbursement basis--were not found to constitute sufficient offeror experience in performing a contract of this magnitude. We also agree with FAA that Southwest's proposal lacked evidence of experience in servicing the specialized systems that had to be maintained under this contract. From our review, we think Southwest's experience and past performance were reasonably considered unacceptable. See Hydro Research Science, Inc., B-230208, May 31, 1988, 88-1 CPD ¶ 517. This deficiency also does not appear readily susceptible to correction.

---

<sup>10/</sup> One Southwest organizational chart (Attachment 1) shows the chief executive officer/contract manager over the project monitor over the project manager for the Aeronautical Center while another chart (Attachment 1A) replaces the project monitor with a senior project manager. Apparently unaware of this discrepancy, Southwest's comments on the agency report state "[w]e proposed no 'Senior Project Manager' but we did identify a 'Senior Assistant Project Manager'."

<sup>11/</sup> If the project manager is unavailable and the subject matter to be decided concerns operations, the chain-of-command ran from the senior assistant project manager to the assistant project manager to the senior foreman. On the other hand, if the subject matter were administrative, the chain would run from the senior assistant project manager to the assistant project manager to the accountant and last to the project monitor. Finally, if the subject matter were deemed to be of a contractual nature, the chain-of-command ran first to the project monitor and then to the contract manager.

Under the category of contract start-up, Southwest admits there were inconsistencies in its milestone chart, although it asserts that they were readily correctable.

The purpose of the competitive range is to select those offerors having a reasonable chance for award and with which the agency will conduct discussions. FAR § 15.609(a). Here, while Southwest disputes its evaluation, the record indicates that there was no close question regarding the acceptability of Southwest's proposal, since significant deficiencies existed in all evaluation categories, such that substantial revisions would be necessary in order for it to become acceptable. See TLC Sys., B-243220, July 9, 1991, 91-2 CPD ¶ 37 (agency properly excluded proposal that failed to provide required information under two of solicitation's four evaluation factors from competitive range). Some of the deficiencies, e.g., those in the areas of past experience and key personnel, do not appear readily curable through discussions. Therefore, Southwest's offer was properly excluded from the competitive range.<sup>12/</sup>

The protest is denied.



James F. Hinchman  
General Counsel

---

<sup>12/</sup> Although Southwest appears to have offered the lowest cost, Southwest's price submission was nonconforming. Southwest substantially disregarded the RFP's cost and price data submission requirements. Specifically, it lacked a price schedule; did not provide maximum salary schedules; was unclear as to the nature of compensated leave and entitlements; did not explain the derivation of its computations; and stated that it was adjusted on the basis of Southwest's assumption that the Department of Labor (DOL) wages were lagging about 2 years behind, even though the RFP contained a current DOL wage determination. The evaluators merely reported the numbers and expressed "no opinion regarding their accuracy." Thus given Southwest's technical deficiencies, its bottom-line number, approximately \$3.3 million below the incumbent's, is of such uncertain derivation that it provides no basis for us to conclude that Southwest's offer is lower than FKW's.